

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

JAN 19

Case No. 5589
Date Filed 1/09/07
Hearing Date _____
Receipt _____
Fee \$ 850

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

- ☐ Administrative Decision/Interpretation
☒ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☒ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

CASE 5589 MAP 40 TYPE Special Exception and Variance

ELECTION DISTRICT 03 LOCATION 1705 Ingleside Road, Forest Hill

BY Anthony Ferrara

Appealed because a special exception pursuant to Section 267-53D (1) of the Harford County Code to permit commercial vehicle storage and Section 267-53H (1) of the Harford County Code to permit construction services and a variance pursuant to Section 267-24B (1) of the Harford County Code to permit a fence greater than 4' high (8' proposed) within the front yard in the Ag District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name Anthony Ferrara Phone Number Call Attorney

Address 1705 Ingleside Road Forest Hill MD 21050
Street Number Street City State Zip Code

Co-Applicant N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Michael E. Leaf Phone Number _____

Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 1705 Ingleside Road, Forest Hill, MD 21050

Subdivision Land of Schmidt Lot Number 4

Acreage/Lot Size 2.58 Election District Third Zoning Ag.

Tax Map No. 40 Grid No. 3A Parcel 373, Lot 4 Water/Sewer: Private X Public

List ALL structures on property and current use: Dwelling House and garage

Estimated time required to present case: 1 hour

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? N/A

Is this property located within the County's Chesapeake Bay Critical Area? Yes No X

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes X No

Is this request within one (1) mile of any incorporated town limits? Yes No X

Request

Special Exception approval for construction services and suppliers use/commercial
vehicle storage to allow use of property for storage of vehicles and equipment
used in landscaping business and variance to allow eight feet fence to remain
in the front yard.

Justification

Use will satisfy all requirements of Zoning Code and will be conducted
without creating any adverse impacts different or greater than the impacts
that would result from these uses regardless of location in the Ag district
Due to topographical conditions, an eight foot fence is needed to screen
view of property from neighbors

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

TL40 P.573
 REMENSION OF REVENSED FINAL PLAT
 LOT 3
 DIVISION OF THE REMAINING LAND OF
 WABLE SCHMIDT
 PLAT REF: C.G.H. 51-97

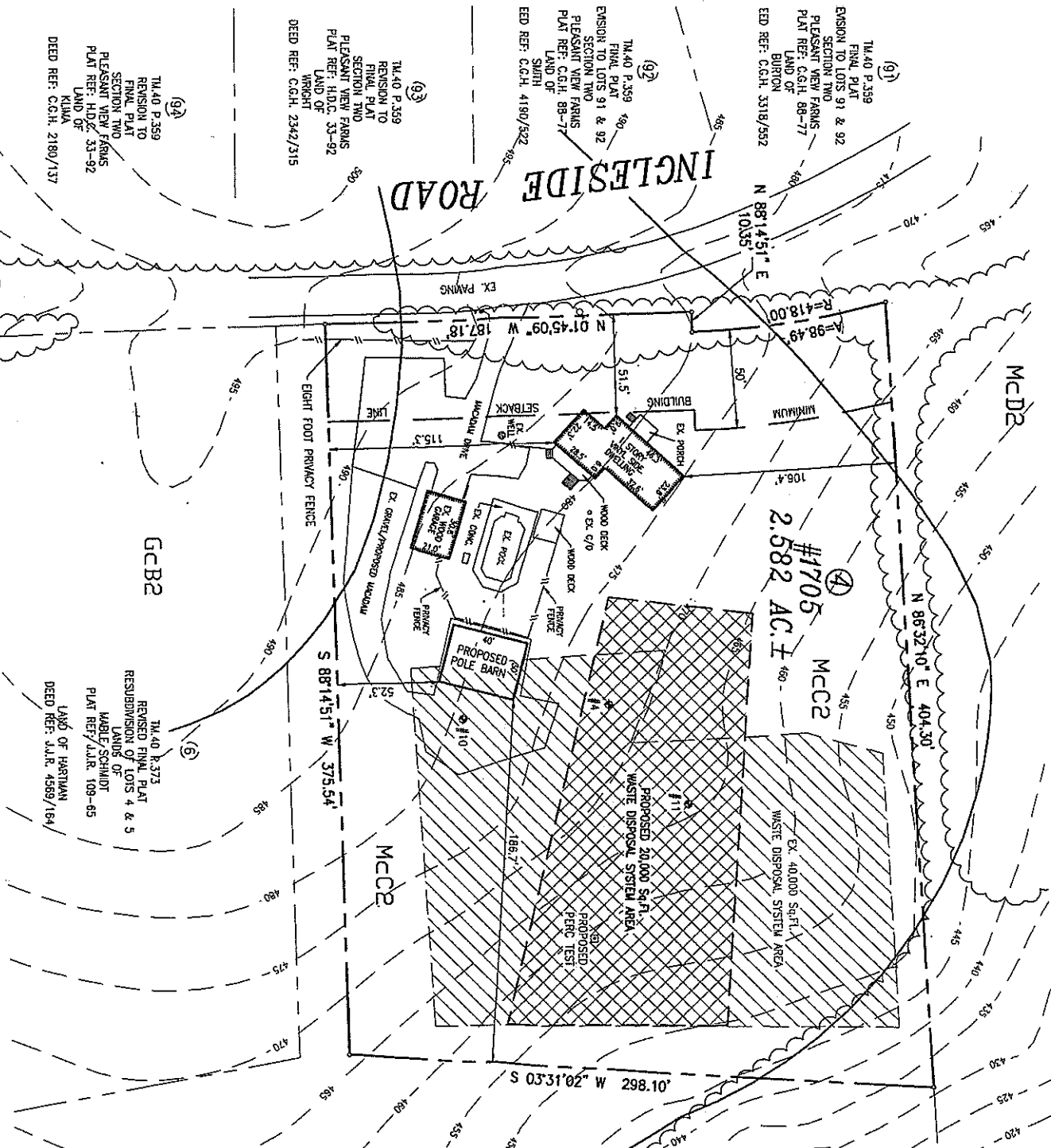
LAND OF
 AGIO REALTY & COMPANY
 DEED REF: C.G.H. 2942/244

(97)
 TL40 P.359
 FINAL PLAT
 REMENSION TO LOTS 91 & 92
 SECTION TWO
 PLEASANT VIEW FARMS
 PLAT REF: C.G.H. 88-77
 LAND OF
 BURTON
 DEED REF: C.G.H. 3318/352

(97)
 TL40 P.359
 FINAL PLAT
 REMENSION TO LOTS 91 & 92
 SECTION TWO
 PLEASANT VIEW FARMS
 PLAT REF: C.G.H. 88-77
 LAND OF
 SMITH
 DEED REF: C.G.H. 4180/322

(93)
 TL40 P.359
 REMENSION TO
 FINAL PLAT
 SECTION TWO
 PLEASANT VIEW FARMS
 PLAT REF: H.D.C. 33-92
 LAND OF
 WRIGHT
 DEED REF: C.G.H. 2342/315

(92)
 TL40 P.359
 REMENSION TO
 FINAL PLAT
 SECTION TWO
 PLEASANT VIEW FARMS
 PLAT REF: H.D.C. 33-92
 LAND OF
 KILIA
 DEED REF: C.G.H. 2180/137



DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

February 15, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 5589

APPLICANT/OWNER: Anthony Ferrara
1705 Ingleside Road, Forest Hill, Maryland 21050

REPRESENTATIVE: Michael E. Leaf, Esquire
Hodes, Ulman, Pessin & Katz
112 South Main Street, Bel Air, Maryland 21014

LOCATION: 1705 Ingleside Road – Land of Schmidt
Tax Map: 40 / Grid: 3A / Parcel: 373 / Lot: 4
Election District: Three (3)

ACREAGE: 2.58 acres

ZONING: AG/Agricultural

DATE FILED: January 9, 2007

HEARING DATE: March 14, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

“Special Exception approval for Construction Services and Suppliers Use/Commercial Vehicle Storage to allow use of property for storage of vehicles and equipment used in landscaping business and variance to allow eight feet fence to remain in the front yard.”

Preserving Harford's past; promoting Harford's future

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Justification:

"Use will satisfy all requirements of zoning Code and will be conducted without creating any adverse impacts different or greater than the impacts that would result from these uses regardless of location in the AG District. Due to topographical conditions, an eight foot fence is needed to screen view of property from neighbors."

CODE REQUIREMENTS:

The Applicant is requesting a Special Exception pursuant to Section 267-53D(1) of the Harford County Code to permit commercial vehicle storage and Section 267-53H(1) of the Harford County Code to permit construction services and a variance pursuant to Section 267-24B(1) of the Harford County Code to permit a fence greater than 4-feet high (8-foot proposed) within the front yard in the AG/Agricultural District.

Section 267-53D(1) of the Harford County Code reads:

D. Motor Vehicle and related services.

- (1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:
 - (a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*
 - (b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*
 - (c) A minimum parcel area of two (2) acres shall be provided.**

Section 267-53H(1) of the Harford County Code reads:

H. Services. [Amended by Bill No. 97-54]

- (1) Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to residential lot or visible from a public road.*

Section 267-91 of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

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The Applicant's property is located on the east side of Ingleside Road south of the intersection of Pleasantville Road and High Point Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 1 and 2).

The subject property is located outside of the Development Envelope. The predominant land use designation is Agricultural. The Natural Features Map reflects Parks, Stream System, Sensitive Species Project Review Areas and Agricultural Preservation Districts and Easements. The subject property is designated as Agricultural which is defined by the 2004 Master Plan as:

Agricultural – Areas where agriculture is the primary land use, but where developments rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 3 and 4).

Land Use – Existing:

The existing Land Uses conform to the overall intent of the 2004 Master Plan. The predominant land use is Agricultural which includes cropland, pastureland and large areas of dense woodland. There are several single family residential subdivisions in the area. The topography of the area ranges from rolling to steep especially near the many stream valleys. A topography map and a copy of the aerial photograph are enclosed with the report (Attachments 5 and 6).

The lot fronts on the east side of Ingleside Road. It is square in shape and approximately 2.6± acres in size. The lot is part of the Mable Schmidt subdivision. The lot is shown on plat 109-65 as lot 4 and was recorded in December of 2002 (see Attachment 7). The topography of the property ranges from rolling to steep (Attachment 8). Improvements include a single family dwelling with wooden decks on the front and rear. In addition to the dwelling there is a detached 2-car garage, an in-ground pool with a board on board fence around the pool and a board on board privacy fence across a portion of the front of the property. There is landscaping in front of the privacy fence. The parking and storage area is behind the privacy fence. Site photographs along with an enlargement of the aerial photograph are enclosed with the report (Attachments 9 and 10).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification is AG/Agricultural which includes the subject property. There are also areas of RR/Rural Residential. Enclosed with the report is a copy of the Zoning Map (Attachment 11).

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Zoning Enforcement:

This Department received a complaint on January 7, 2005 that a landscaping business was operating on the subject property. The inspector visited the property on February 3 of 2005. He observed one commercial truck and 2 pickups parked to the right side of the garage. In addition to the trucks the inspector observed 1 large trailer, 1 enclosed trailer and several pallets of bagged goods. There was no advertising on the trucks or the property. Over the next several months letters and meeting were held with the Applicant prior to the submission of their appeals application Enclosed are copies from the enforcement file (Attachment 12).

SUMMARY:

The Applicant is requesting a Special Exception pursuant to Section 267-53D(1) of the Harford County Code to permit commercial vehicle storage and Section 267-53H(1) of the Harford County Code to permit construction services and a variance pursuant to Section 267-24B(1) of the Harford County Code to permit a fence greater than 4-feet high (8-foot proposed) within the front yard in the AG/Agricultural District.

Section 267-53D(1):

D. *Motor Vehicle and related services.*

- (1) *Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:*

The lot is zoned Agricultural.

- (a) *The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*

Presently the vehicles and equipment are located behind a berm with a board on board privacy fence. In front of the fence is a row of pine trees. The fencing and trees were planted at the request of the residents on the west side of Ingleside Road. Should the request be approved the Applicant is proposing to construct a 30 by 40 foot building that will house all of the vehicles, trailers and equipment. The building, as shown on the Applicant's site plan, is to be located to the rear of the existing garage and pool approximately 160 feet back from the front property line. The existing berm, pine trees, and improvements will help to screen the proposed building from the road. Along the southern property line the Applicant has begun to plant pine trees to screen the use from the properties to the south. If approved, the Department is requesting that additional trees be planted along the southern property line to a point beyond the rear of the proposed building.

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The Applicant has stated to the Department during the pre-application meeting that he has the following vehicles and equipment.

- 2500 series pickup truck
- 350 series pickup truck
- 1996 Kodiak stake body truck
- skid loader/bobcat
- open trailer generally used to haul the skid loader
- 2 enclosed trailers
- mowers generally stored within the trailers.
- 2 plows for pickup trucks
- hand tools, edgers and equipment used in the business.

(b) *The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*

Not applicable to the request.

(c) *A minimum parcel area of two (2) acres shall be provided.*

The property is 2.582 acres in size.

Section 267-53H(1):

H. *Services. [Amended by Bill No. 97-54]*

(1) *Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to residential lot or visible from a public road.*

The Applicant has already installed a berm, fencing, and landscaping across the front of the property. Because of the size of the property, the Department would recommend that all vehicles and equipment be stored within the proposed building.

Section 267-9I:

(1) *The number of persons living or working in the immediate area.*

Large equipment is common in the area due to the existing farming operations. The Applicant's business is relatively small consisting of 2 pickup trucks, a stake bodied truck, an open trailer and two enclosed trailers. With proper conditions, the request should not adversely impact persons living in the area.

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- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

Ingleside Road is a dead end road with low traffic volumes. The request should not impact traffic in the area.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The use will not have an adverse fiscal impact on the County.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The number of commercial vehicles and equipment proposed by this request should not have an adverse impact on the community based on the issues listed in this section of the Code.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Bel Air, Forest Hill and Fallston Volunteer Fire Departments will provide fire protection and emergency services. The property is served by private well and septic system. A company of the Applicant's choice will handle trash collection.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The request is consistent with generally accepted planning principles and practices.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposal should have no impact on any of the uses listed in this subsection.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

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The proposal should have no impact on the surrounding natural features.

(10) *The preservation of cultural and historic landmarks.*

Not applicable to the request.

Variance:

The Applicant is also requesting a variance pursuant to Section 267-24B(1) of the Harford County Code to permit a fence greater than 4-feet high (8-foot proposed) within the front yard in the AG/Agricultural District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The request states that the Applicant is seeking a variance for an 8 foot fence. However, the fence that exists is only 6 foot in height. The fence sits on top of a berm along Ingleside Road. The Applicant presently parks the equipment, trucks and trailers behind the berm and fence. The Applicant is requesting approval to construct a 30 by 40 foot building that will eventually house the vehicle and equipment. The fence provides additional screening to the residents across the street from the property. The Department finds that the subject property is unique based on the existing topography.

Health Department:

The Health Department has a request before them to reduce the recorded septic reserve area from 40,000 square feet to 20,000 square feet. This will allow the applicant to locate the proposed storage building to the rear of the existing garage and pool, approximately 160 feet back from the road that will further help to reduce impacts on the community. The Health Department in a letter dated January 29, 2007, has offered the following comments:

1. *A soil percolation test will be required to reduce the SRA to 20,000 square feet. Therefore the record plat for Lot 4 must be revised.*
2. *The drain field location must be pinpointed and indicated on the revised preliminary plan. This can be accomplished by locating the distribution box and indicating its location on the print.*
3. *If the proposed pole building and /or macadam will be placed over the existing drain field then a new disposal field will need to be installed and current drain field abandoned.*

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4. *If this business will employ individuals who will report to the site to pick-up and return equipment, then proper sanitary provisions must be made for these employees. The use of a spot-a-pot is not an acceptable solution.*

Enclosed with the report is a copy of the Health Department's letter dated January 29, 2007 (Attachment 13).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The Applicant shall prepare a detailed site plan that will be submitted to the Department of Planning and Zoning for review and approval thru the Development Advisory Committee.
2. The Applicant shall submit a landscaping plan to the Department of Planning and Zoning for review and approval with the site plan. Landscaping shall be included along the southern property boundary.
3. The Applicant shall construct the pole building within 6 months from the final decision of the Board.
4. All vehicles and equipment must be stored within the existing garage or the proposed pole building.
5. The Applicant shall not perform major repairs to the vehicles and equipment on this site. General maintenance of the vehicles and equipment is permitted.
6. The Applicant shall be limited to 3 employees coming to the site to pick up and return vehicles and equipment.
7. All conditions as outlined in the Health Department letter dated January 29, 2007 shall be met.
8. A preliminary plan and final plat for the reconfiguration of the septic reserve area must be submitted to the Department of Planning and Zoning for review and approval.



Shane Grimm, Chief
Site Plan and Building Permits Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf